

AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY APRIL 30, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2347

Introduced by Assembly Member Gonzalez

February 21, 2014

An act to amend Sections 786, 10127.9, 10127.10, 10127.13, and 10509.6 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, as amended, Gonzalez. Insurance policies.

(1) Existing law requires that a disability insurance policy or life insurance policy and certificate offered for sale to individuals 65 years of age or older in California provide a 30-day examination period during which the applicant may return the contract and receive a refund of all premiums and any membership fee paid. This information is required to be disclosed on the cover sheet of the policy or certificate, in no less than 10-point uppercase type. Existing law allows the applicant to return the policy or certificate by regular mail.

This bill would specify that those requirements apply to individual and group disability and group life insurance policies and certificates. The bill would require that the notice be in 12-point bold type on the front of the policy jacket or on the cover sheet of the policy or certificate. The bill would allow the policyholder or certificate holder to return the policy or certificate by mail or other delivery method. The bill would also require an insurer, its agent, group master policyowner, or association that collects more than one month's premium from an individual who is 60 years of age or older on the date he or she

purchased the coverage to provide that person a prorated refund of the premium if the person delivers a cancellation request during the first 30 days of the policy period.

(2) Existing law requires a policy of individual life insurance that is initially delivered or issued for delivery in the state on and after January 1, 1990, to have printed thereon or attached thereto a specified notice of cancellation rights.

This bill would require that disclosure to be printed on the front of the policy jacket or on the cover page of every individual life insurance policy and individual annuity contract.

(3) Existing law requires specified disclosures, in all capital letters, pertaining to cancellation and refunds, to the consumers of variable individual life insurance policies and variable annuity contracts, and of consumers of individual life insurance policies other than variable contracts and modified guaranteed contracts. Existing law requires an insurer to include in those disclosures that the applicant may be charged a surrender charge or penalty if he or she cancels the policy after the 30-day period, unless the policy does not contain surrender charges or penalties.

This bill would additionally require that those disclosures be included with a modified guaranteed annuity contract, and would instead require that the disclosure be made in lowercase type. This bill would also require an insurer that calls a surrender charge a “withdrawal penalty” to disclose that fact, as specified.

(4) Existing law requires all individual life insurance policies and individual annuity contracts for senior citizens that contain a surrender charge period to either disclose the surrender period and all associated penalties in 12-point bold print on the cover sheet of the policy or disclose the location of the surrender information in bold 12-point print on the cover page of the policy or printed on a sticker that is affixed to the cover page or to the policy jacket.

This bill would instead require those policies and contracts *that contain a charge upon surrender, partial surrender, excess withdrawal, or penalties upon surrender to disclose contain a notice disclosing the location of the surrender charge, surrender the charge time period, and surrender the charge information, and any associated penalty information in bold 12-point print on the front of the policy jacket or on the single cover page of the policy, which would also be required to contain any statutorily required notice regarding a right to examine. This bill would*

also require that notice and the statutorily required right to examine notice to appear on the same page if both notices are on the cover page.

The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 786 of the Insurance Code is amended
2 to read:

3 786. All individual and group disability insurance policies and
4 certificates, and all group life insurance policies and certificates
5 offered for sale to individuals age 65 or older in California shall
6 provide an examination period of 30 days after the receipt of the
7 policy or certificate for purposes of review of the contract. If the
8 policyholder or certificate holder chooses to cancel the policy or
9 certificate and returns the policy or certificate for cancellation, by
10 mail or other delivery method, within the 30-day examination
11 period, the return shall void the policy or certificate from the
12 beginning, and the parties shall be in the same position as if a
13 policy or certificate had not been issued. All premiums paid and
14 any policy or membership fee paid shall be fully refunded to the
15 policyholder or certificate holder by the insurer or entity in a timely
16 manner.

17 (a) For the purposes of this section, a timely manner is no later
18 than 30 days after the insurer or entity issuing the policy or
19 certificate receives the returned policy or certificate.

20 (b) If the insurer or entity issuing the policy or certificate fails
21 to refund all of the premiums and any policy or membership fee
22 paid, in a timely manner, the policyholder or certificate holder
23 shall receive interest on the paid premium and policy or
24 membership fee at the legal rate of interest on judgments as
25 provided in Section 685.010 of the Code of Civil Procedure. The
26 interest shall be paid from the date the insurer or entity received
27 the returned policy or certificate.

28 (c) Each policy or certificate shall have a notice prominently
29 printed in no less than 12-point bold print, on the front of the policy
30 jacket or on the cover page of the policy or certificate and the
31 outline of coverage, stating that the policyholder or certificate
32 holder, as applicable, has the right to return the policy or certificate,

1 by mail or other delivery method, within 30 days after its receipt,
2 and to have the full premium and any policy or membership fee
3 paid refunded.

4 (d) If, at the time of application or at the time of delivery of a
5 group term life insurance policy or certificate, an insurer, its agent,
6 group master policyowner, or association collects more than one
7 month's premium from an individual who is 60 years of age or
8 older on the date he or she purchased coverage, the insurer shall
9 provide the individual with a prorated refund of the premium if
10 the individual delivers a cancellation request to the insurer during
11 the first 30 days of the policy period.

12 SEC. 2. Section 10127.9 of the Insurance Code is amended to
13 read:

14 10127.9. (a) (1) Every individual life insurance policy and
15 every individual annuity contract that is initially delivered or issued
16 for delivery in this state on and after January 1, 1990, shall have
17 printed on the front of the policy jacket or on the cover page a
18 notice stating that, after receipt of the policy by the owner, the
19 policy may be returned by the owner for cancellation by mail or
20 other delivery method to the insurer or to the agent through whom
21 it was purchased. The period of time set forth by the insurer for
22 return of the policy by the owner shall be clearly stated and this
23 period shall be not less than 10 days nor more than 30 days.

24 (2) The owner may return the policy to the insurer by mail or
25 other delivery method at any time during the period specified in
26 the notice. In the case of individual nonvariable life insurance
27 policies and individual nonvariable annuity contracts, including
28 modified guaranteed contracts, by delivering or mailing the policy
29 pursuant to this section during the cancellation period, the owner
30 shall void the policy from the beginning, and the parties shall be
31 in the same position as if no policy had been issued. All premiums
32 paid and any policy fee paid for the policy shall be refunded by
33 the insurer to the owner within 30 days from the date that the
34 insurer is notified that the owner has canceled the policy. In the
35 case of individual variable annuity contracts and individual variable
36 life insurance policies, return of the policy during the cancellation
37 period shall entitle the owner to a refund of the account value and
38 any policy fee paid for the policy. The account value and policy
39 fee shall be refunded by the insurer to the owner within 30 days

1 from the date that the insurer is notified that the owner has canceled
2 the policy.

3 (b) This section applies to all individual policies issued or
4 delivered in this state on or after January 1, 1990, but does not
5 apply to any policy subject to Section 10127.7. All policies subject
6 to this section which are in effect on January 1, 1990, shall be
7 construed to be in compliance with this section, and any provision
8 in any policy which is in conflict with this section shall be of no
9 force or effect.

10 (c) This section does not apply to individual life insurance
11 policies issued in connection with a credit transaction or issued
12 under a contractual policy-change or conversion privilege provision
13 contained in a policy.

14 (d) General references to “policy” or “policies” in this section
15 refer to both life insurance policies and annuity contracts.

16 SEC. 3. Section 10127.10 of the Insurance Code is amended
17 to read:

18 10127.10. (a) Every policy of individual life insurance and
19 every individual annuity contract that is initially delivered or issued
20 for delivery to a senior citizen in this state on and after July 1,
21 2004, shall have printed on the front of the policy jacket or on the
22 cover page a notice stating that, after receipt of the policy by the
23 owner, the policy may be returned by the owner for cancellation
24 by mail or other delivery method to the insurer or agent from whom
25 it was purchased. The period of time set forth by the insurer for
26 return of the policy by the owner shall be clearly stated in the
27 notice and this period shall be not less than 30 days. The owner
28 may return the policy to the insurer by mail or other delivery
29 method at any time during the period specified in the notice. During
30 the 30-day cancellation period, the premium for an individual
31 variable life insurance policy or an individual variable annuity
32 contract may be invested only in fixed-income investments and
33 money-market funds, unless the owner specifically directs that the
34 premium be invested in the mutual funds underlying the variable
35 life insurance policy or variable annuity contract. Return of the
36 policy within the 30-day cancellation period shall have one of the
37 following effects:

38 (1) In the case of individual variable life insurance policies and
39 individual variable annuity contracts for which the owner has not
40 directed that the premium be invested in the mutual funds

1 underlying the policy during the cancellation period, return of the
2 policy during the cancellation period shall have the effect of
3 voiding the policy from the beginning, and the parties shall be in
4 the same position as if no policy had been issued. All premiums
5 paid and any policy fee paid for the policy shall be refunded by
6 the insurer to the owner within 30 days from the date that the
7 insurer is notified that the owner has canceled the policy.

8 (2) In the case of individual variable life insurance policies and
9 individual variable annuity contracts for which the owner has
10 directed that the premium be invested in the mutual funds
11 underlying the policy during the 30-day cancellation period,
12 cancellation shall entitle the owner to a refund of the account value
13 and any policy fee paid for the policy. The account value shall be
14 refunded by the insurer to the owner within 30 days from the date
15 that the insurer is notified that the owner has canceled the policy.

16 (b) This section applies to all individual life insurance policies
17 and all individual annuity contracts issued or delivered to senior
18 citizens in this state on or after January 1, 2004. All policies subject
19 to this section which are in effect on January 1, 2003, shall be
20 construed to be in compliance with this section, and any provision
21 in any policy which is in conflict with this section shall be of no
22 force or effect.

23 (c) Every individual nonvariable life insurance policy and every
24 individual nonvariable annuity contract, including modified
25 guaranteed annuity contracts, subject to this section, that is
26 delivered or issued for delivery in this state shall have the following
27 notice printed on the front of the policy jacket or on the cover page
28 in 12-point bold print with one inch of space on all sides, using
29 the exact language in quotation marks below, with whichever one
30 of the three bracketed product descriptions that applies to the
31 product on which the notice appears:

32
33 “IMPORTANT!
34

35 You have purchased a [life insurance policy or annuity contract
36 or modified guaranteed annuity contract]. Carefully review it for
37 limitations.

38 This policy may be returned within 30 days from the date you
39 received it for a full refund by returning it to the insurance company

1 or agent who sold you this policy. After 30 days, cancellation may
2 result in a substantial penalty, known as a surrender charge.”

3
4 The sentence “After 30 days, cancellation may result in a
5 substantial penalty, known as a surrender charge” may be deleted
6 if the policy does not contain a surrender charge. The phrase
7 “known as a surrender charge” may be deleted if the policy contains
8 a penalty but no surrender charge. If the policy contains both a
9 penalty, or penalties, and a surrender charge, the sentence shall
10 state that cancellation may result in a “[substantial penalty or
11 substantial penalties] and “*substantial penalties, including a*
12 *surrender charge,*” with either a “substantial penalty” or “substantial
13 penalties,” whichever applies to the product upon which the notice
14 appears. *charge.*” Whether a charge constitutes a surrender charge
15 or a penalty shall be determined by the nature of the charge and
16 not the name given to the charge by the insurer. If the surrender
17 charge is called a “withdrawal charge” in the policy, the insurer
18 shall add the following sentence at the end of the notice:

19 “In this policy the surrender charge is called a ‘withdrawal
20 charge.’”

21 (d) Every individual variable life insurance policy and every
22 individual variable annuity contract subject to this section, that is
23 delivered or issued for delivery in this state, shall have the
24 following notice printed on the front of the policy jacket or on the
25 cover page in 12-point bold print with one inch of space on all
26 sides, using the exact language in quotation marks below, with
27 whichever one of the two bracketed product descriptions that
28 applies to the product on which the notice appears:

29
30 “IMPORTANT!

31
32 You have purchased a [variable life insurance policy or variable
33 annuity contract]. Carefully review it for limitations.

34 This policy may be returned within 30 days from the date you
35 received it. During that 30-day period, your money will be placed
36 in a fixed account or money-market fund, unless you direct that
37 the premium be invested in a stock or bond portfolio underlying
38 the policy during the 30-day period. If you do not direct that the
39 premium be invested in a stock or bond portfolio, and if you return
40 the policy within the 30-day period, you will be entitled to a refund

1 of the premium and any policy fee paid. If you direct that the
2 premium be invested in a stock or bond portfolio during the 30-day
3 period, and if you return the policy during that period, you will be
4 entitled to a refund of the policy's account value on the day the
5 policy is received by the insurance company or agent who sold
6 you this policy, which could be less than the premium you paid
7 for the policy, plus any policy fee paid. A return of the policy after
8 30 days may result in a substantial penalty, known as a surrender
9 charge."

10
11 The sentence "A return of the policy after 30 days may result in
12 a substantial penalty, known as a surrender charge" may be deleted
13 if the policy does not contain a surrender charge. If the policy
14 contains both a penalty, or penalties, and a surrender charge, the
15 sentence shall state that cancellation may result in a ~~substantial~~
16 ~~penalty or substantial penalties~~ and "*substantial penalties,*
17 *including a surrender charge,*" with either a "substantial penalty"
18 or "substantial penalties," whichever applies to the product upon
19 which the notice appears. charge." The phrase "known as a
20 surrender charge" may be deleted if the policy contains a penalty
21 but no surrender charge. Whether or not a charge constitutes a
22 surrender charge or a penalty will be determined by the nature of
23 the charge and not the name given to the charge by the insurer. If
24 the surrender charge is called a "withdrawal charge" in the policy,
25 the insurer shall add the following sentence at the end of the notice:
26 "In this policy the surrender charge is called a 'withdrawal
27 charge.'"

28 (e) If the individual annuity contract is an immediate annuity
29 contract, the following sentence, using the exact language in
30 quotation marks below, in 12-point bold print, shall be added at
31 the end of the right to examine language required by this section
32 and before the one inch of space:

33
34 "After the 30-day period has expired, you may not be able to
35 get your purchase payment money back in any manner, or in any
36 manner other than in annuity payments made according to the
37 terms of your contract. The insurance company or agent who sold
38 you this contract can explain if your contract has these restrictions."
39

1 (f) This section does not apply to life insurance policies issued
2 in connection with a credit transaction or issued under a contractual
3 policy-change or conversion privilege provision contained in a
4 policy.

5 (g) For purposes of this chapter, a senior citizen means an
6 individual who is 60 years of age or older on the date of purchase
7 of the policy.

8 (h) General references to “policy” or “policies” in this section
9 refer to both life insurance policies and annuity contracts.

10 SEC. 4. Section 10127.13 of the Insurance Code is amended
11 to read:

12 10127.13. (a) All individual life insurance policies and
13 individual annuity contracts for senior citizens that contain a
14 ~~surrender charge, including partial upon surrender, excess~~
15 ~~withdrawal charges, or penalties~~ *partial surrender, excess*
16 *withdrawal, or penalties upon surrender, surrender shall disclose*
17 *contain a notice disclosing the location of the surrender charge,*
18 ~~surrender the charge time period, and surrender the charge~~
19 *information, as well as and any associated penalty information, in*
20 *bold 12-point print on the front of the policy jacket or on the cover*
21 *page of the policy.*

22 (b) A policy shall have just one cover page, ~~which shall be the~~
23 ~~same page upon which any statutorily required notice of a right to~~
24 ~~examine shall be set forth. If the notice required by this section~~
25 ~~and the statutorily required right to examine notice are both on~~
26 ~~the cover page, as opposed to the front cover of the policy jacket,~~
27 ~~they shall appear on the same page.~~

28 (c) General references to “policy” in this section refer to both
29 life insurance policies and annuity contracts.

30 SEC. 5. Section 10509.6 of the Insurance Code is amended to
31 read:

32 10509.6. Every life insurer that uses an agent in a life insurance
33 or annuity sale shall do the following:

34 (a) Require with or as part of each completed application for
35 life insurance or annuity, a statement signed by the agent as to
36 whether he or she knows a replacement is or may be involved in
37 the transaction.

38 (b) Where a replacement is involved:

39 (1) Require from the agent with the application for life insurance
40 or annuity: (i) a list of all of the applicant’s existing life insurance

1 or annuity to be replaced, and (ii) a copy of the replacement notice
2 provided the applicant pursuant to Section 10509.4. The existing
3 life insurance or annuity shall be identified by name of insurer,
4 insured, and contract number. If a number has not been assigned
5 by the existing insurer, alternative identification, such as an
6 application or receipt number shall be listed.

7 (2) Send to each existing life insurer a written communication
8 advising of the replacement or proposed replacement and the
9 identification information obtained pursuant to this section and a
10 policy summary, contract summary, or ledger statement containing
11 policy data on the proposed life insurance or annuity. Cost indices
12 and equivalent level annual dividend figures need not be included
13 in the policy summary or ledger statement. This written
14 communication shall be made within three working days of the
15 date the application is received in the replacing insurer's home or
16 regional office, or the date the proposed policy or contract is issued,
17 whichever is sooner.

18 (3) Every existing life insurer or the insurer's agent that
19 undertakes a conservation shall, within 20 days from the date the
20 written communication plus the materials required in subdivisions
21 (1) and (2) are received by the existing insurer, furnish the
22 policyowner with a policy summary for the existing life insurance
23 or ledger statement containing policy data on the existing policy
24 or annuity. Information relating to premiums, cash values, death
25 benefits, and dividends, if any, shall be computed from the current
26 policy year of the existing life insurance. The policy summary or
27 ledger statement shall include the amount of any outstanding
28 indebtedness, the sum of any dividend accumulations or additions,
29 and may include any other information that is not in violation of
30 any regulation or statute. Cost indices and equivalent level annual
31 dividend figures need not be included. When annuities are
32 involved, the disclosure information shall be that in the contract
33 summary.

34 The replacing insurer may request the existing insurer to furnish
35 it with a copy of the summaries or ledger statement, which shall
36 be within five working days of the receipt of the request.

37 (c) The replacing insurer shall maintain evidence of the "notice
38 regarding replacement," the policy summary, the contract summary,
39 and any ledger statements used, and a replacement register,
40 cross-indexed by replacing agent and existing insurer to be

1 replaced. The existing insurer shall maintain evidence of policy
2 summaries, contract summaries, or ledger statements used in any
3 conservation. Evidence that all requirements were met shall be
4 maintained for at least three years.

5 (d) The replacing insurer shall provide on the front of the policy
6 jacket or on the cover page of its life insurance policy or annuity
7 contract or, alternatively, as a separate written document which is
8 delivered with the life insurance policy or annuity contract, a notice
9 stating that the owner has a right to an unconditional refund of all
10 premiums paid which right may be exercised within a period of
11 30 days commencing from the date of delivery of the contract. In
12 the case of variable annuities, and variable life insurance, return
13 of the contract during the cancellation period shall entitle the owner
14 to a refund of the account value and any policy fee paid. The
15 account value and policy fee shall be refunded by the insurer to
16 the owner within 30 days from the date that the insurer is notified
17 that the owner has canceled the contract.

O